

ORIGINAL

OPEN MEETING ITEM



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COMMISSIONERS
JEFF HATCH-MILLER - Chairman
WILLIAM A. MUNDELL
MARC SPITZER
MIKE GLEASON
KRISTIN K. MAYES



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ARIZONA CORPORATION COMMISSION

2005 JAN 20 P 1: 20

22

DATE: January 20, 2005

AZ CORP COMMISSION
DOCUMENT CONTROL

DOCKET NO: RR-03639A-04-0829

TO ALL PARTIES:

Enclosed please find the recommendation of Administrative Law Judge Marc E. Stern. The recommendation has been filed in the form of an Opinion and Order on:

UNION PACIFIC RAILROAD COMPANY
(UPGRADE CROSSING)

Pursuant to A.A.C. R14-3-110(B), you may file exceptions to the recommendation of the Administrative Law Judge by filing an original and thirteen (13) copies of the exceptions with the Commission's Docket Control at the address listed below by 4:00 p.m. on or before:

JANUARY 31, 2005

The enclosed is NOT an order of the Commission, but a recommendation of the Administrative Law Judge to the Commissioners. Consideration of this matter has tentatively been scheduled for the Commission's Working Session and Open Meeting to be held on:

FEBRUARY 8 AND 9, 2005

For more information, you may contact Docket Control at (602)542-3477 or the Hearing Division at (602)542-4250. For information about the Open Meeting, contact the Executive Secretary's Office at (602) 542-3931.

Arizona Corporation Commission

DOCKETED

JAN 20 2005

DOCKETED BY	
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BRIAN C. McNEIL
EXECUTIVE SECRETARY

1 **THE ARIZONA CORPORATION COMMISSION**

2 COMMISSIONERS

3 JEFF HATCH-MILLER, Chairman
4 WILLIAM A. MUNDELL
5 MARC SPITZER
6 MIKE GLEASON
7 KRISTIN K. MAYES

8 IN THE MATTER OF THE APPLICATION OF
9 THE CITY OF CHANDLER, ARIZONA TO
10 UPGRADE A CROSSING OF THE UNION
11 PACIFIC RAILROAD AT PECOS ROAD IN
12 MARICOPA COUNTY, ARIZONA, AAR/DOT NO.
13 741-674-P.

DOCKET NO. RR-03639A-04-0829

DECISION NO. _____

OPINION AND ORDER

10 DATE OF HEARING: January 6, 2005

11 PLACE OF HEARING: Phoenix, Arizona

12 ADMINISTRATIVE LAW JUDGE: Marc E. Stern

13 APPEARANCES: Mr. Timothy Sabo and Ms. Diane Targovnik, Staff
14 Attorneys, Legal Division, on behalf of the Utilities
Division of the Arizona Corporation Commission.

15 **BY THE COMMISSION:**

16 On November 18, 2004, the City of Chandler ("City") submitted to the Arizona Corporation
17 Commission ("Commission") a request for an Opinion and Order for the approval of an agreement
18 between the City and the Union Pacific Railroad Company ("Railroad") to upgrade the Railroad's
19 crossing at Pecos Road in Chandler, Maricopa County, Arizona, at AAR/DOT No. 741-674-P
20 ("Application").

21 On December 1, 2004, by Procedural Order, the Application was set for a hearing and the
22 City was ordered to notify any interested party of the Application and the hearing.

23 On December 9, 2004, the City certified that notice had been provided pursuant to the terms
24 of the Procedural Order.

25 On January 5, 2005, a full public hearing was held before a duly authorized Administrative
26 Law Judge of the Commission at its offices in Phoenix, Arizona. The Commission's Railroad Safety
27 Section was present with counsel. At the conclusion of the hearing, the matter was taken under
28 advisement pending submission of a recommended Opinion and Order to the Commission.

* * * * *

Having considered the entire record herein and being fully advised in the premises, the Commission finds, concludes, and orders that:

FINDINGS OF FACT

1. On November 18, 2004, the City filed an Application in which it requested an Opinion and Order from the Commission approving an agreement between the City and the Railroad to upgrade the existing Pecos Road public crossing in Chandler at AAR/DOT No. 741-674-P in the following manner: by widening the existing roadway from one lane in each direction to three lanes in each direction between McQueen Road and Dobson Road; by constructing raised concrete medians; by replacing the existing warning devices with new LED automatic warning devices with automatic gate arms; by adding two cantilever flashing signals; and by installing a new concrete crossing surface.

2. On December 9, 2004, the City filed certification that it had provided notice by registered U.S. mail of the Application and hearing thereon.

3. A hearing was held as scheduled on January 6, 2005.

4. The Application provides for the Railroad to install new LED flashing lights with automatic gates, flashing signals on two cantilevers and a concrete crossing surface at the crossing.

5. Staff testified that the cost apportionment for the installation of the crossing upgrade as provided in the Application is proper.

6. Staff has recommended that the Application be approved.

CONCLUSIONS OF LAW

1. The Commission has jurisdiction over the parties and over the subject matter of the Application pursuant to Article XV of the Arizona Constitution and A.R.S. §§ 40-336, 40-337 and 40-337.01.

2. Notice of the Application was provided in accordance with the law.

3. Installation of the crossing upgrade is necessary for the public's convenience and safety.

4. Pursuant to A.R.S. §§ 40-336 and 337, the Application should be approved as

recommended by Staff.

5. After installation of the crossing, the Railroad should maintain the crossing in accordance with A.A.C. R14-5-104.

ORDER

IT IS THEREFORE ORDERED that the City of Chandler's Application is hereby approved.

IT IS FURTHER ORDERED that the Union Pacific Railroad Company shall complete the crossing upgrade as described in the Application within fifteen months from the effective date of this Decision.

IT IS FURTHER ORDERED that the Union Pacific Railroad Company shall notify the Commission, in writing, within ten days of both the commencement and the completion of the crossing upgrade, pursuant to A.A.C. R14-5-104.

IT IS FURTHER ORDERED that upon completion of the crossing upgrade, the Union Pacific Railroad Company shall maintain the crossing in compliance with the A.A.C. R14-5-104.

IT IS FURTHER ORDERED that this Decision shall become effective immediately.

BY ORDER OF THE ARIZONA CORPORATION COMMISSION.

CHAIRMAN

COMMISSIONER

COMMISSIONER

COMMISSIONER

COMMISSIONER

IN WITNESS WHEREOF, I, BRIAN C. McNEIL, Executive Secretary of the Arizona Corporation Commission, have hereunto set my hand and caused the official seal of the Commission to be affixed at the Capitol, in the City of Phoenix, this ____ day of _____, 2005.

BRIAN C. McNEIL
EXECUTIVE SECRETARY

DISSENT _____

DISSENT _____

1 SERVICE LIST FOR:

UNION PACIFIC RAILROAD COMPANY

2 DOCKET NO.

RR-03639A-04-0829

3
4 John Syers
5 Railroad Engineering Coordinator
6 Arizona Department of Transportation
7 205 S. 17th Avenue, Mail Drop 618E
8 Phoenix, AZ 85007

9 David Gibson
7 Arizona Department of Transportation
Traffic Records Section
8 206 S. 17th Avenue, Mail Drop 064R
9 Phoenix, AZ 85007

10 James H. Smith
11 UNION PACIFIC RAILROAD COMPANY
12 10031 Foothills Blvd.
13 Roseville, CA 95747

14 Anthony J. Hancock
15 Beaugureau Zukowski & Hancock, P.C.
16 2111 E. Highland Avenue, Ste. 255
17 Phoenix, AZ 85016

18 Ray Buglion, P.E.
19 Public Works Department
20 Construction Management
21 City of Chandler
22 P.O. Box 4008, MS411
23 Chandler, AZ 85244

24 James. R. Cairns III
25 Assistant City Attorney
26 City of Chandler
27 P.O. Box 4008, MS602
28 Chandler, AZ 85244

21 Christopher Kempley, Chief Counsel
22 Legal Division
23 ARIZONA CORPORATION COMMISSION
24 1200 West Washington Street
25 Phoenix, Arizona 85007

26 Don Thompson, Chief
27 Railroad Safety Section
28 ARIZONA CORPORATION COMMISSION
1200 West Washington Street
Phoenix, Arizona 85007